



MINISTRY OF HOUSING AND
LOCAL GOVERNMENT

First Report of
the Trade Effluents
Sub-Committee
of the
Central Advisory Water Committee



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1958
NINEPENCE NET

This report has been prepared by the Trade Effluents Sub-Committee of the Central Advisory Water Committee appointed by the Minister of Housing and Local Government under Section 2 of the Water Act, 1945. The Report was adopted by the Main Committee on Wednesday, 12th February, 1958.

The membership of the sub-committee is as follows:—

Sir Frederick Armer, K.B.E., C.B., M.C. (*Chairman*).

Mr. J. H. Edmondson, O.B.E., M.I.Mech.E., M.I.Chem.E.

Mr. H. E. Hopthrow, C.B.E., M.I.Mech.E.

Dr. S. H. Jenkins, Ph.D., D.Sc., F.R.I.C., F.Inst.S.P.

Mr. G. S. Mason, B.Sc., M.I.Chem.E., J.P.

Mr. W. A. Muddell, J.P.

Ald. C. W. F. Ridley.

Mr. G. R. Taylor.

Mr. A. Titherley, C.B.E.

Mr. E. T. Wadman, J.P.

Mr. H. R. Pollitzer (*Secretary*).

REPORT TO THE CENTRAL ADVISORY WATER COMMITTEE

Gentlemen,

I. APPOINTMENT

1. Six of us were appointed by the Central Advisory Water Committee on 30th October, 1956 as a sub-committee with the following terms of reference:—

“(i) To examine existing legislation and the operation of the common law respecting the disposal from trade premises of liquid effluents (including solids in suspension), not being radioactive effluents; to examine the problems, including financial problems, arising therefrom; to consider whether farm or any other premises should be designated as trade premises for the purposes of disposal of such effluents; and to make recommendations.

(ii) To examine the position respecting section 8 (2) of the Rivers (Prevention of Pollution) Act, 1951 (which requires the consent of the Minister before a river board may take proceedings under section 2 or section 3 of that Act) and to advise whether it is desirable to suggest the extension of the operation of that provision beyond the term of seven years from the passing of the Act and, if so, for what further period.”

2. Mr. J. H. Edmondson, Dr. S. H. Jenkins, Alderman C. W. F. Ridley and Mr. E. T. Wadman accepted invitations to become co-opted members. Assessors appointed by the Government Departments mainly concerned have taken part in our meetings.

II. PROCEDURE

3. In compliance with a request from the Central Advisory Water Committee to produce, as a matter of urgency, recommendations on the second part of our terms of reference, we have concentrated on that question first and accordingly we have the honour to present now our report on it.

4. We have held eight meetings. Our first step was to issue through the press a general invitation to anyone concerned to submit to us written evidence. We also invited bodies known to have an interest in the questions before us to let us have memoranda expressing their views on either part or both of our terms of reference. Such evidence concerning the second part, with which alone the present report is concerned, was received from those listed at Appendix I.

At three of our meetings we took oral evidence. Those who gave it are listed at Appendix II.

III. THE QUESTION BEFORE US

5. Historical and legal as well as practical points are relevant in considering the question before us. In the following paragraphs we have briefly summarised these.

6. It first became an offence under the Rivers Pollution Prevention Act, 1876, to discharge into any stream any poisonous, noxious or polluting liquid from a factory, or any such solid or liquid matter from a mine (other than mine water as drained or raised), without using “the best practicable and reasonably

available means" to render the discharge harmless. The Act provided that proceedings in respect of such offences could be taken only by a sanitary authority and could not be taken until the consent of the Local Government Board had been obtained. In deciding whether to consent, the Board had to "have regard to the industrial interests involved" and to local circumstances, and it was not to grant consent to proceedings unless it was satisfied that means for rendering the trade effluent harmless were "reasonably practicable and available" and "that no material injury [would] be inflicted by such proceedings on the interests of such industry". After obtaining the Board's consent, the authority had to give the offender two months' written notice of intention to take proceedings; they also had to consider his objections and give him an opportunity of being heard before finally determining whether proceedings should be taken.

7. By the River Boards Act, 1948, the powers of sanitary authorities in this respect were transferred to the newly set up river boards.

8. The Rivers Pollution Prevention Sub-Committee of the Central Advisory Water Committee (Hobday Committee) in their report published in 1949 considered at some length the question of consent to proceedings (paragraphs 95-109). They summarised the reasons for and against retention of this requirement, and came to the conclusion that it should be done away with where standards for polluting liquids, based on standards tests, had been prescribed by byelaws in accordance with their recommendations (which included procedure giving full opportunity for representations and hearing of objections before the byelaws came into force). In the absence of such standards they recommended that the requirement of consent should be retained in respect of proceedings relating to the discharge of liquid industrial effluents, mainly because of the wider questions of national policy affecting important industries that might arise, and also because of the lack of technical knowledge and experience of many of the new river boards. This recommendation did not cover discharges from sewage disposal works because "subject to labour and materials being available, there should be no insuperable difficulty in securing that effluents from sewage treatment works are of sufficiently high standard to avoid pollution".

9. The provision in subsection (2) of section 8 of the Rivers (Prevention of Pollution) Act, 1951, on whose possible extension we have been asked to advise, is a direct descendant of the 1876 Act, in that it enacts that proceedings for a contravention of the prohibition (in section 2(1)) to pollute a stream, in respect of any trade effluent shall not be instituted by a river board without the consent of the Minister (now the Minister of Housing and Local Government, as successor of the Minister of Health who succeeded the Local Government Board). It differs from the earlier provision however in three main aspects:—

- (a) its operation is extended also to effluents from the sewage disposal or sewerage works of a local authority;
- (b) the Minister is not subject to any limitations in deciding whether to grant or refuse his consent to proceedings;
- (c) the Minister's consent is not needed to proceedings in respect of contraventions
 - (i) arising only from the effluent not complying with a standard prescribed by byelaws, or
 - (ii) occurring or apprehended after the end of a period of seven years from 1st August, 1951.

10. It is to the question of a possible extension of this seven year period, as provided for in subsection (3), that we have had to address our minds.

11. The related provisions of the 1951 Act make it difficult to forecast with any degree of certainty the consequences of ending the consent requirement. In particular section 2 (3) of the Act provides that the discharge into a stream of any trade effluent or any effluent from the sewage disposal or sewerage works of a local authority shall not be penalised if "it is not reasonably practicable to dispose of the effluent otherwise . . ." and if "all reasonably practicable steps are taken to prevent the effluent being unnecessarily poisonous, noxious or polluting". This provision, however, will come into effect only when the consent requirement ceases. One thing is clear, therefore, that an alleged polluter will then have a defence which at present is not available to him in the courts. By virtue of section 5 (3) this defence however will not be available in proceedings in respect of a contravention arising from an effluent that does not comply with a quality standard prescribed by byelaws under the Act.

IV. REVIEW OF EVIDENCE

12. We have referred to the wealth of evidence we received, and while we do not consider it necessary here to review it in full detail it is to be noted that generally pollution prevention authorities, fishery interests, and water undertakings were against an extension of the seven year period, whilst those speaking on behalf of local authorities and of traders discharging effluents into streams favoured an extension.

13. The principal reasons given by those advocating an extension of the period were as follows:—

(a) *Economic*:—The requirement was not merely a continuation of the 1876 Act's protection for industry, but it had been placed in the 1951 Act, and extended to cover local authorities, largely in view of the limitations imposed at the time by the national investment programme. Restrictions on capital expenditure have continued and local authorities and traders have not been able to carry out as much work as they expected. The Government feared at the time that unrestricted powers for river boards to institute proceedings would cause a disproportionate part of the country's resources to be spent on pollution prevention, and the same reasoning still applied. Moreover, some local authorities are accepting trade effluents into their sewers with a view to alleviating the pollution that would be caused if those effluents continued to be discharged directly into rivers. Because war-time and post-war restrictions on capital expenditure have prevented the extensions of their sewage treatment works on the scale needed to cope with domestic sewage and trade effluents such authorities may have to discharge incompletely treated sewage effluents and thereby expose themselves to the risk of causing pollution. This has been and would continue to be the consequence of the restrictions, but it should not be taken to indicate any wish on the part of the authorities to shirk their responsibilities. The Minister, because of his responsibilities in connection with national policy, should be the final arbiter as to whether or not a prosecution could take place.

(b) *Statutory duty to provide drainage*:—Public authorities also maintained that it was logical that the onus of a decision as to proceedings should continue to be placed on the Minister because such authorities had

a statutory duty to provide drainage facilities within their districts; they were generally expected to accept trade effluents and could be directed by the Minister to do so; and the Minister's sanction was required before they could construct works.

- (c) *River boards' surveys and byelaws*.—It was further put to us that it would be in the interest of all concerned that an extension of the period be made in order to allow river boards to continue to gain experience of the state of their rivers, to complete their work on river surveys, and to continue to accumulate data required to enable them to formulate byelaws prescribing standards for determining what is polluting for the purposes of the Act. So long as byelaw standards had not received the Minister's approval, his consent should be required before river boards were enabled to prosecute.
- (d) *Research*.—Research work, we were informed, was now being carried out, with encouraging prospects, on the purification of certain classes of trade effluents. An extension of the period was required for the results so far achieved to be completed and translated into works practice. It would be better for all that such a course should be followed than that industry should be forced, as a result of undue pressure or court action, into spending money on remedial measures before the best methods of effluent treatment and disposal had been worked out.

14. Those opposing an extension, on the other hand, put it to us that the requirement to obtain the Minister's consent to proceedings was no longer necessary and should be allowed to lapse. The principal arguments in support of this view were:—

- (a) *River boards' sense of responsibility*.—The river boards had exercised their powers with restraint and with consideration for the needs of industry, with due regard to national policy and the difficulties of local authorities. The fact that only a few applications for consent to prosecute had been made to the Minister could be adduced as proof of the contention that such action was regarded only as a final resort by the river boards. Moreover no difficulty had arisen where ministerial consent was not required for proceedings, as for example under the Salmon and Freshwater Fisheries Act, 1923, or under the local acts giving powers to the Thames Conservancy and the Lee Conservancy Catchment Board.
- (b) *Administrative efficiency*.—It was claimed on behalf of the river boards that delays under the present system connected with the need to prepare a case for submission to the Minister would be avoided because a detailed case would be required only if court action actually had to be taken. The pressure which must be put on some offenders would be applied earlier if the boards had power to prosecute at their own discretion. The knowledge that river boards have such a power would lead to greater readiness on the part of offenders both to negotiate with the boards and to improve their effluents.
- (c) *Experience with new discharges*.—Since the inception of the 1951 Act, it was pointed out, thousands of consents relating to new or altered outlets or new discharges of trade or sewage effluent had been issued by river boards under Section 7 of the Act, embodying conditions of discharge of which only a minute fraction had been the subject of appeals to the Minister. This, it was claimed, showed that the boards were asking for reasonable standards, capable of achievement.

- (d) *River boards' surveys and byelaws*:—The case outlined in paragraph 13 (c) above was countered by the argument that it had not been found as readily practicable as had been hoped by the Hobday Committee either to devise a suitable general test for toxicity or to fix pollution standards with due regard to the great variety of local circumstances. To wait for the general proscription of such standards would mean subjecting the river boards to an indefinite period of tutelage incompatible with their status as responsible bodies. As a result of the surveys so far carried out in fulfilment of their obligations, the river boards now had sufficient information upon which to base the exercise of their full responsibilities.
- (e) *Research*:—To the point at 13 (d) above it was replied that river boards, as responsible bodies, could be trusted not to take precipitate action against traders or public bodies making genuine efforts to reduce pollution. The pressure which they might be enabled to put on industry could be used, moreover, to advantage in accelerating research and the construction of purification works.

V. CONCLUSION

15. Having weighed the evidence, we have come to the conclusion that the time has not yet arrived for dispensing with the Minister's consent. While it is true that river boards generally have shown forbearance in view of the financial implications of their requirements on industry as well as on local authorities, and through them on the country as a whole, we do not feel that we ought altogether to disregard the fears of those who are concerned lest they be caught between the difficulties of capital restriction on the one side and possible prosecution on the other. It seems to us to be desirable also that a little extra time should be given to industry to pursue their research on effluent treatment and to river boards to push ahead with the preparation of byelaws, maybe of a limited scope, laying down permissible quality standards for effluents. Nor is it without relevance that we are now entering under part (i) of our terms of reference upon the general review of the law on this subject. We therefore recommend that the original seven year period be extended for a short period which in our view should be three years.

16. Finally, we wish to record our appreciation of the services of our Secretary, Mr. Pollitzer. His able handling of our business has greatly assisted us in our task.

1. F. ARMER (*Chairman*)
J. H. EDMONDSON
H. E. HOPTHROW
S. H. JENKINS
G. S. MASON
W. A. MUDDLELL
C. W. F. RIDLEY
G. R. TAYLOR
A. TITHERLEY
E. T. WADMAN

H. R. POLLITZER
(*Secretary*)

9th December, 1957.

APPENDIX I

(see para. 4)

WRITTEN EVIDENCE

Aluminium Industry Council.
Association of British Chemical Manufacturers.
Association of Municipal Corporations.
Birmingham Tame and Rea District Drainage Board.
British Coking Industry Association.
British Iron and Steel Federation.
British Leather Federation.
British Transport Commission.
British Waterworks Association.
Central Electricity Authority.
Cheltenham Borough Engineer.
Country Landowners' Association.
Federation of British Industries.
Food Manufacturers' Federation Incorporated.
Gas Council.
Institute of British Launderers Limited.
Institute of Sewage Purification.
Institution of Gas Engineers.
Institution of Municipal Engineers.
Institution of Public Health Engineers.
Institution of Water Engineers.
London Chamber of Commerce.
Manchester County Borough Council.
Middlesex County Council.
Milk Marketing Board.
National Coal Board.
National Farmers' Union.
National Federation of Anglers.
National Union of Manufacturers.
Refinery Sub-Committee of the United Kingdom Petroleum Industry Advisory Committee.
River Boards' Association.
Rural District Councils' Association.
Salmon and Trout Association.
Textile Finishing Trades Association.
United Tanners' Federation.
Urban District Councils' Association.
Walsall County Borough Council.
West Riding of Yorkshire County Council.
Wool Textile Delegation.

APPENDIX II

(see para. 4)

ORAL EVIDENCE

<i>Organisation</i>						<i>Witnesses</i>
Association of Municipal Corporations	...					Mr. H. Bann Mr. P. B. Dingle Mr. P. Hodgson Mr. A. N. Schofield
British Waterworks Association...	...	...				Mr. L. Millis Mr. R. Fairall
Federation of British Industries...	...	...	...			Dr. W. H. Garrett Mr. A. S. Cash Mr. F. M. Hudson Mr. C. Lea Mr. H. W. Sharp
Gas Council	...	...	...	...	...	Mr. J. H. Dyde Mr. L. F. Stemp
Institute of Sewage Purification...	...	...				Mr. M. A. Kershaw Mr. W. F. Snook Mr. C. B. Townend
National Coal Board	...	...	...	...		Mr. B. C. Gould Mr. D. Hicks Mr. J. W. Hunt
River Boards' Association			Col. S. P. Dawson Mr. A. H. Jolliffe Mr. M. A. Liddell Ald. P. J. Smith Mr. J. L. Spiller
Salmon and Trout Association			Mr. J. Barclay Mr. E. R. Dew

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